

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MAZEN OWYDAT,)
YOUSSEF MEQUEH and)
SALEH ALKHAFAJI d/b/a WEST)
FLORISSANT BP f/k/a)
WEST FLORISSANT AMOCO,)
)
Petitioners/Plaintiffs,)
)
vs.)
)
CITY OF ST. LOUIS and)
BOARD OF ADJUSTMENT OF THE)
CITY OF ST. LOUIS, MISSOURI,)
)
Respondents/Defendants.)
)

Cause No. 4:20-cv-00388

**RESPONDENTS' MOTION TO DISMISS COUNTS I, III, IV AND V OF
PETITIONERS' PETITION**

COME NOW Respondents City of St. Louis, Missouri and the Board of Adjustment of the City of St. Louis, Missouri, by and through counsel, and move this Court to dismiss this action against them for failure to state a claim upon which relief can be granted under Federal Rule of Civil Procedure 12(b)(6). In support, Respondents respectfully state the following:

1. Petitioners fail to state a claim in their Complaint against Respondents upon which Plaintiffs may obtain relief from this Court or any other. Federal Rule of Civil Procedure 12(b)(6)
2. Taking Petitioners' factual allegations against Respondents as true, and construing those allegations in a light most favorable to Petitioners, Petitioners still fail to sufficiently allege facts entitling them to relief. *Kottschade v. City of Rochester*, 319 F.3d 1038, 1040 (8th Cir. 2003).

3. Respondents submit herewith a memorandum in support of their motion, which sets out the relevant arguments and citations to authority on which they rely.

WHEREFORE, Respondents City of St. Louis and Board of Adjustment for the City of St. Louis pray the Court grant their Motion to Dismiss Petitioners' Petition for Failure to State a Claim with prejudice, and for any further relief the Court deems just and reasonable.

Respectfully submitted,

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